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IN THE

# Supreme Court of the United States

OCTOBER TERM 1942.

**No. 612.**

SCHLUMBERGER WELL SURVEYING CORPORATION,

*Petitioner,*

—against—

HALLIBURTON OIL WELL CEMENTING COMPANY,

*Respondent.*

## REPLY BRIEF FOR PETITIONER.

WILLIAM D. MITCHELL,
WORTHINGTON CAMPBELL,
*Counsel for Petitioner.*

BRADY COLE,
*Of Counsel.*

THE COURT PRESS, N. Y. C.

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## REPLY BRIEF FOR PETITIONER.

In its brief (p. 4), Respondent makes the following statement:

> "Petitioner predicates this (first) question upon an alleged application of the *decision* in *Mitchell* v. *Tilghman*, 19 Wall. 287, etc. * * * The applicable decisions of this Court, relied upon by the Court of Appeals herein, are stated in the opinion. The interpretation of the claims of the respective patents in suit was based upon the authority of, and followed the decisions of this Court in, *Carnegie Steel Co.* v. *Cambria Iron Co.*, 185 U. S. 403, 432; *Continental Paper Bag Co.* v. *Eastern P. B. Co.*, 210 U. S. 405, 419; *Schriber-Schroth Co.* v. *Cleveland Trust Co.*, 311 U. S. 211, 217; *Schriber-Schroth Co.* v. *Cleveland Trust Co.*, 305 U. S. 47 * * *."

This statement is erroneous in the assertion of what appears in the opinion of the Court of Appeals. With

the exception of the so-called first *Schriber-Schroth* case, 305 U. S. 47, which does not seem to be in point for any purpose and which was not even cited by counsel below, none of the cases listed by Respondent as the "applicable decisions" that were "relied upon by the Court of Appeals" and "stated in the opinion" were cited or mentioned at any point in the opinion of the Court of Appeals, which quite apparently relied instead on the doctrine of *Mitchell* v. *Tilghman* (1874), 19 Wall. 287, which was subsequently repudiated in *Tilghman* v. *Proctor* (1881), 102 U. S. 707, as set forth in our petition.

In its brief (p. 3), Respondent seems to suggest that any oil company operating in the various producing areas of the United States may go into the business of making electrical well logs. So far as this record shows and so far as we know, no oil company has essayed to make electrical logs commercially or will ever attempt to do so. This is a new and difficult art that has been left, and doubtless will continue to be left, to service companies. At the present time, there are no service companies prepared and able to do this work with the exception of Respondent and Petitioner and Lane-Wells Company, which is Petitioner's licensee.

The case in the Southern District of California to which Respondent has referred (p. 3) as involving one of the patents in suit was a case against the corporate predecessor of Lane-Wells Company, which obtained a license long ago and which is now operating as a licensed service company throughout the United States. This case was settled and dismissed in 1938 (R., Vol. X, p. 5399). Far from supporting Respondent, these facts reinforce the conclusion that

there are no prospects for the establishment of a conflict between Circuits through the trial of another case at any reasonable time in the future.

We submit that the Writ should be granted.

Respectfully submitted,

WILLIAM D. MITCHELL,
WORTHINGTON CAMPBELL,
*Counsel for Petitioner.*

BRADY COLE,
*Of Counsel.*

Due and timely service of three (3) copies of the within BRIEF is hereby admitted this day of 194 .

Attorney for